IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS MARSHALL DIVISION

LODSYS, LLC, Plaintiff. CIVIL ACTION NO. 2:11-cv-283 v. ADIDAS AMERICA INC.; BBY SOLUTIONS, INC.; BEST WESTERN INTERNATIONAL, INC.: CVS CARMARK CORPORATION; SAM'S WEST, INC.; STANLEY, BLACK & DECKER, INC.; THE CONTAINER STORE, INC.;

THE TEACHING COMPANY, LLC; VEGAS.COM, LLC; VITAMIN SHOPPE, INC.,

Defendants.

JOINT MOTION TO SUBSTITUTE BESTBUY.COM, LLC FOR BBY SOLUTIONS, INC.

COMES NOW plaintiff Lodsys, LLC ("Lodsys"), defendant BBY Solutions, Inc. ("BBY"), and proposed substitute-defendant BestBuy.com, LLC ("BestBuy"), who file this joint motion to substitute BestBuy for BBY.

Lodsys filed its Complaint for Patent Infringement in the above-captioned action (the "Complaint") against, among other defendants, BBY on June 10, 2011. BBY's response is currently due on September 6, 2011. BBY has recently informed Lodsys that BestBuy, rather than BBY, is the proper entity at issue in the Complaint. BBY and BestBuy are represented by the same undersigned counsel. Accordingly, Lodsys, BBY, and BestBuy respectfully request that BestBuy be substituted for BBY in the above-captioned action as follows:

- (1) BestBuy shall be substituted for BBY as a named defendant in the Complaint, and all allegations against BBY shall be deemed alleged against BestBuy;
- BestBuy's substitution for BBY in the above-captioned action shall relate back to (2)Lodsys's filing of the Complaint, including for purposes of any applicable statute of limitations;

- (3) BestBuy, by and through its undersigned counsel, agrees to waive its right to service of the Summons and Complaint in the above-captioned action; and
- (4) BestBuy's response to the Complaint shall be due within twenty-one (21) days from entry of the Order granting this Joint Motion.

Counsel for Lodsys has conferred with counsel for BBY and BestBuy regarding the relief jointly requested herein. This Joint Motion is not for purposes of delay.

Dated: September 6, 2011. Respectfully Submitted,

By: /s/ Christopher M. Huck

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Attorneys for Defendant BBY Solutions, Inc. and BestBuy.com, LLC

CERTIFICATE OF CONFERENCE

The undersigned counsel for Lodsys and counsel for BBY and BestBuy certify that they have conferred regarding this Joint Motion and the relief jointly requested herein.

By: <u>/s/ Christopher M. Huck</u> Christopher M. Huck

By: /s/ John C. Low John C. Low

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this response was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(V). Pursuant to FED. R. CIV. P. 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by email, on this 6th day of September 2011.

By: /s/ Christopher M. Huck Christopher M. Huck